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FCC Mail Room

December 8, 2014

EX PARTE OR LATE FILED

Tom Wheeler, Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: WC Docket No. 12-375; FCC 14-158
Rates for Interstate Inmate Calling Services

DOCKET FILE COPY ORIGINAL

Dear Mr. Wheeler:

By way of introduction, I am a two term Sheriff of Marion County, Indiana (Indianapolis). In 1972, the federal courts took control of the Marion County Jail because of a lawsuit over unconstitutional conditions. In 2003, my predecessor, Sheriff Frank Anderson, inherited that lawsuit which had been in place for 30 years. Nevertheless, the condition of the Jail was still utterly deplorable.

Together, we considered it a major civil rights battle and committed to deal with all the problems in the Jail: Overcrowding, poor medical care, poor nutrition, and unsafe conditions throughout. Through hard work by many people, the Jail was released from federal oversight and the lawsuit dismissed, 35 years after it was filed. By 2010, I was elected and the Marion County Jail was accredited by the American Correctional Association (A.C.A.).

I am writing you to express my concerns about the FCC's consideration of inmate telephone charges. I maintain that the telephone revenue was absolutely key to Marion County and our ability to fight for, and eventually obtain constitutional conditions and ultimately, A.C.A. accreditation. In Indiana, our General Assembly has wisely looked at the issue of inmate telephones and enacted I.C. 5-22-23-6. In addition, the legislature has enacted a specific statute concerning the use of those funds for departmental betterment, specifically I.C. 36-8-10-21. Additionally, our appellate courts have considered challenges to our statutory provisions and rejected them out of hand. See *Alexander v. Marion County Sheriff*, 891 N.E.2d 87 (Ind. Ct. App. 2008). Thus, in Indiana, we have a judicially approved statutory scheme that allows

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App. 2008). Thus, in Indiana, we have a judicially approved statutory scheme that allows Sheriffs to utilize telephone monies to operate and maintain jails in accord with high standards. Obviously, the accreditation by ACA, as well as the accreditation by the National Commission on Correctional Healthcare (NCCHC) directly benefits inmates and, ultimately, their families.

Jail telephone communications are closely monitored at the Marion County Jail. Costs associated with Jail telephones are high due to the wanton destruction, and unusual wear and tear. Simply maintaining these lines is difficult enough. At the Marion County Jail, we have staff dedicated to making sure the telephones are in good repair. We have additional staff dedicated to ensure inmates do not rig the telephone system and gain access to outside lines that are not restricted. This is a constant and expensive endeavor.

We also fight a constant battle of the issue of cell phones. Cell phones pose a dangerous security risk, and we have worked closely with our telephone vendor to root out dangerous cell phones. A few times a year, a "cell phone dog" evaluates the Jail to detect these devices. We are now looking at technology which may assist in the prevention of cell phone security leaks. Unfortunately, the technology is expensive.

Perhaps one of the biggest expenses Sheriffs face from the use of inmate phones is monitoring and investigation. Countless hours are devoted to this endeavor. Our Jail's telephone system led to additional charges being placed on an alleged bomber, who apparently blew up an entire Indianapolis neighborhood, killing two people. While in Jail, our investigators detected a "murder for hire" plot that the alleged bomber had undertaken over the Jail telephone system. The Jail telephone system helps us solve crimes and prevent them.

In Marion County, the inmate telephone system is not a stand-alone. It is closely linked to our Offender Management System, which allows the Jail to be operated in a safer and more secure fashion. It is linked to our commissary ordering system, and also our system for providing for Jail Visitation. These tools also support criminal investigations, allowing quick access to solve crimes based upon the Jail's databank. This includes images of the inmates and their identification marks, including tattoos. The Jail Gang Unit has been instrumental in tracking and assessing gang activity in Marion County. Thus, the inmate telephone system helps keep our streets safe. However, being ever mindful of the families of the inmates, we have made great strides to allow easy access for them to deposit funds through kiosks or over the web, which actually reduces their costs and time commitment.

Furthermore, we are working with the telephone vendor to provide additional opportunities to the inmates. Obviously, we could restrict inmate communication to Jail visits and written letters. However, in addition to telephone communication, we are investigating the possible inmate use of emails and texting. Furthermore, we are considering electronic games and other devices which would allow inmates more opportunity for diversion. "An idle mind is the devil's workshop," and we have foiled major escape attempts over the last few years. It takes time and money to develop these options for the inmates and their families, but the telephone monies allow us to move forward.

Finally, I am proud of our funding of Jail Programs such as GED, anger management, parenting classes, and AA/NA activities. All of these are funded and supported by the Jail's Commissary Fund. Marion County just recently created a new women's program to help address the rising number of female inmates. All of the new programs, clothing, and improvements to the infrastructure were funded through the Commissary's telephone monies.

In my view, Indiana law has addressed the concerns of inmate families. Importantly, we do not get complaints on this subject since the Indiana legislation was enacted in 2002. In my 40 years in law enforcement, I have found the current provisions to fairly and fully balance the provision of the telephone service with the need to pay for those services, and all of its sequela.

At the end of the day, significant money is devoted directly for the betterment of the inmates. Lastly, please be reminded that the telephone system is wholly voluntary. Inmates' families may visit or write an inmate. There is no constitutional obligation that inmates have telephone service. In closing, I would simply say, please do not fix that which is not broken. I would be happy to discuss this matter with you or your staff at any time. Thank you for your kind attention.

Very truly yours,


John R. Layton
Marion County Sheriff

cc: Congressman André Carson
Senator Joe Donnelly
Steve Luce, Indiana Sheriffs' Association